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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,656	08/21/2003	Richard James Axe	1-24694	9928

4859 7590 05/20/2004

MACMILLAN SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA FOURTH FLOOR  
720 WATER STREET  
TOLEDO, OH 43604-1619

EXAMINER

NORMAN, MARC E

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/646,656

Applicant(s)

AXE, RICHARD JAMES

Examiner

Marc E. Norman

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11 and 14-16 is/are rejected.
- 7) ☒ Claim(s) 7, 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/11/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-11, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Barr et al.

As per claim 1, Barr et al. discloses a temperature sensitive valve 18 including a passageway (44 & 46; see column 3, lines 39-40), valve member 88 movable between first & second positions, retaining member 146 movable with the valve and engaged with holding device 140 in a first position while the temperature is below a threshold, and release actuator 150 movable when the temperature reaches a threshold to disengage the retaining member 146 and the holding device 140, to permit valve member 88 to move to the second position (column 5, lines 27-35).

As per claim 2, Barr et al. discloses the valve member being pivotal about shaft 86.

As per claim 3, Barr et al. discloses valve member 88 being a flap (Figure 2) which in the first position allows flow and in the second position engages valve seat 48 to close the passageway.

As per claim 4, Barr et al. discloses biasing device 114.

As per claim 5, Barr et al. discloses valve member 88 remaining in the second position.

Art Unit: 3744

As per claim 6, Barr et al. discloses retaining member 146 being movable by the release actuator 150 to allow the retaining member and the holding device to disengage at the threshold temperature (column 5, lines 27-35).

As per claim 8, Barr et al. discloses release actuator 150 parting the retaining member and the holding member.

As per claim 9, Barr et al. discloses holding device 140 being a latching lever (column 5, line 6).

As per claim 10, Barr et al. discloses latch 140 being pivoted (about axis 84; see Figures 3 and 4).

As per claim 11, Barr et al. discloses latch biasing device 134.

As per claim 14, Barr et al. discloses the release actuator 150 including a thermally sensitive substance (solder) which expands (melts) as the temperature approaches the threshold temperature, thereby allowing the movable retaining member 146 to disengage from the holding device 140.

As per claims 15 and 16, Barr et al. discloses release actuator 150 being mounted in combination with both the valve member and the valve body (Figures 2 and 3).

***Allowable Subject Matter***

Claims 7, 12, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3744

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 703-305-2711. The examiner can normally be reached on Mon.-Fri., 8:00-5:30, with first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on 703-308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**MARC NORMAN  
PRIMARY EXAMINER**